

Senate File 261 - Reprinted

SENATE FILE 261

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1082)

(As Amended and Passed by the Senate March 15, 2011)

A BILL FOR

1 An Act relating to the technical administration of the tax
2 and related laws by the department of revenue, including
3 the administration of income taxes, sales and use taxes,
4 franchise fees, property taxes, the environmental protection
5 charge, and notification of annexation or severance by
6 cities and including retroactive applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I
INCOME TAXES

Section 1. Section 2.48, subsection 3, paragraph a, subparagraph (2), Code 2011, is amended to read as follows:

(2) The tax credits for increasing research activities available under sections 15.335, ~~15A.9~~, 422.10, and 422.33.

Sec. 2. Section 15.119, subsection 2, paragraph c, Code 2011, is amended by striking the paragraph.

Sec. 3. Section 15.293A, subsection 2, paragraph f, Code 2011, is amended to read as follows:

f. A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~ Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~

Sec. 4. Section 15.329, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 5. Section 15.333, subsection 1, paragraph b, Code 2011, is amended by striking the paragraph.

Sec. 6. Section 15.393, subsection 2, paragraph a, subparagraph (3), Code 2011, is amended to read as follows:

(3) After verifying the eligibility for a tax credit under this paragraph "a", the department of economic development shall issue a film, television, and video project promotion

1 program tax credit certificate to be attached to the person's
2 tax return. The tax credit certificate shall contain the
3 taxpayer's name, address, tax identification number, the date
4 of project completion, the amount of credit, other information
5 required by the department of revenue, and a place for the name
6 and tax identification number of a transferee and the amount
7 of the tax credit being transferred. Tax credit certificates
8 issued under this paragraph "a" may be transferred to any person
9 or entity. Within ninety days of transfer, the transferee
10 shall submit the transferred tax credit certificate to the
11 department of revenue along with a statement containing the
12 transferee's name, tax identification number, and address,
13 and the denomination that each replacement tax credit
14 certificate is to carry and any other information required by
15 the department of revenue. Within thirty days of receiving
16 the transferred tax credit certificate and the transferee's
17 statement, the department of revenue shall issue one or more
18 replacement tax credit certificates to the transferee. Each
19 replacement tax credit certificate must contain the information
20 required for the original tax credit certificate and must have
21 the same expiration date that appeared in the transferred
22 tax credit certificate. Tax credit certificate amounts
23 of less than the minimum amount established by rule of the
24 department of economic development shall not be transferable.
25 A tax credit shall not be claimed by a transferee under this
26 paragraph "a" until a replacement tax credit certificate
27 identifying the transferee as the proper holder has been
28 issued. The transferee may use the amount of the tax credit
29 transferred against the taxes imposed in chapter 422, divisions
30 II, III, and V, and in chapter 432, and against the moneys and
31 credits tax imposed in section 533.329, for any tax year the
32 original transferor could have claimed the tax credit. Any
33 consideration received for the transfer of the tax credit shall
34 not be included as income under chapter 422, divisions II, III,
35 and V, ~~under chapter 432, or against the moneys and credits tax~~

1 ~~imposed in section 533.329.~~ Any consideration paid for the
2 transfer of the tax credit shall not be deducted from income
3 under chapter 422, divisions II, III, and V, ~~under chapter~~
4 ~~432, or against the moneys and credits tax imposed in section~~
5 ~~533.329.~~

6 Sec. 7. Section 15.393, subsection 2, paragraph b,
7 subparagraph (2), Code 2011, is amended to read as follows:

8 (2) After verifying the eligibility for a tax credit under
9 this paragraph "b", the department of economic development
10 shall issue a film, television, and video project promotion
11 program tax credit certificate to be attached to the person's
12 tax return. The tax credit certificate shall contain the
13 taxpayer's name, address, tax identification number, the date
14 of project completion, the amount of credit, other information
15 required by the department of revenue, and a place for the name
16 and tax identification number of a transferee and the amount
17 of the tax credit being transferred. Tax credit certificates
18 issued under this paragraph "b" may be transferred to any person
19 or entity. Within ninety days of transfer, the transferee
20 shall submit the transferred tax credit certificate to the
21 department of revenue along with a statement containing the
22 transferee's name, tax identification number, and address,
23 and the denomination that each replacement tax credit
24 certificate is to carry and any other information required by
25 the department of revenue. Within thirty days of receiving
26 the transferred tax credit certificate and the transferee's
27 statement, the department of revenue shall issue one or more
28 replacement tax credit certificates to the transferee. Each
29 replacement tax credit certificate must contain the information
30 required for the original tax credit certificate and must have
31 the same expiration date that appeared in the transferred
32 tax credit certificate. Tax credit certificate amounts
33 of less than the minimum amount established by rule of the
34 department of economic development shall not be transferable.
35 A tax credit shall not be claimed by a transferee under this

1 paragraph "b" until a replacement tax credit certificate
 2 identifying the transferee as the proper holder has been
 3 issued. The transferee may use the amount of the tax credit
 4 transferred against the taxes imposed in chapter 422, divisions
 5 II, III, and V, and in chapter 432, and against the moneys and
 6 credits tax imposed in section 533.329, for any tax year the
 7 original transferor could have claimed the tax credit. Any
 8 consideration received for the transfer of the tax credit shall
 9 not be included as income under chapter 422, divisions II, III,
 10 and V, ~~under chapter 432, or against the moneys and credits tax~~
 11 ~~imposed in section 533.329.~~ Any consideration paid for the
 12 transfer of the tax credit shall not be deducted from income
 13 under chapter 422, divisions II, III, and V, ~~under chapter~~
 14 ~~432, or against the moneys and credits tax imposed in section~~
 15 ~~533.329.~~

16 Sec. 8. Section 422.7, subsection 9, Code 2011, is amended
 17 to read as follows:

18 9. Subtract the amount of the alcohol ~~fuel~~ and cellulosic
 19 biofuels credit allowable for the tax year under section 40
 20 of the Internal Revenue Code to the extent that the credit
 21 increased federal adjusted gross income.

22 Sec. 9. Section 422.33, subsection 5, paragraph f, Code
 23 2011, is amended by striking the paragraph.

24 Sec. 10. Section 422.33, subsection 12, paragraph b, Code
 25 2011, is amended to read as follows:

26 b. The taxes imposed under this division shall be reduced by
 27 investment tax credits authorized pursuant to ~~sections~~ section
 28 ~~15.333, 15A.9, subsection 4,~~ and section 15E.193B, subsection
 29 6.

30 Sec. 11. Section 422.35, subsection 7, Code 2011, is amended
 31 to read as follows:

32 7. Subtract the amount of the alcohol ~~fuel~~ and cellulosic
 33 biofuels credit allowable for the tax year under section 40
 34 of the Internal Revenue Code to the extent that the credit
 35 increased federal taxable income.

1 Sec. 12. Section 422.36, subsection 4, Code 2011, is amended
2 to read as follows:

3 4. Foreign and domestic corporations shall file a copy of
4 their federal income tax return for the current tax year with
5 the return required by this section.

6 Sec. 13. Section 422.89, subsection 3, unnumbered paragraph
7 1, Code 2011, is amended to read as follows:

8 An amount equal to ~~ninety~~ one hundred percent of the tax for
9 the taxable year computed by placing on an annualized basis the
10 taxable income:

11 Sec. 14. REPEAL. Section 15A.9, Code 2011, is repealed.

12 Sec. 15. RETROACTIVE APPLICABILITY. The following
13 provision or provisions of this division of this Act apply
14 retroactively to January 1, 2011, for tax years beginning on
15 or after that date:

16 1. The section of this Act amending section 422.89.

17 DIVISION II

18 SALES TAXES

19 Sec. 16. Section 423.3, subsection 40, Code 2011, is amended
20 to read as follows:

21 40. The sales price from the sale of automotive fluids
22 to a retailer to be used either in providing a service which
23 includes the installation or application of the fluids in
24 or on a motor vehicle, which service is subject to section
25 423.2, subsection 6, or to be installed in or applied to a
26 motor vehicle which the retailer intends to sell, which sale
27 is subject to section ~~423.26~~ 321.105A. For purposes of this
28 subsection, automotive fluids are all those which are refined,
29 manufactured, or otherwise processed and packaged for sale
30 prior to their installation in or application to a motor
31 vehicle. They include but are not limited to motor oil and
32 other lubricants, hydraulic fluids, brake fluid, transmission
33 fluid, sealants, undercoatings, antifreeze, and gasoline
34 additives.

35 Sec. 17. Section 423.3, Code 2011, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 96. The sales price of fees charged for the
3 release of medical records as described in section 622.10.

4 Sec. 18. Section 423.36, subsection 3, paragraph a, Code
5 2011, is amended to read as follows:

6 a. The department shall grant and issue to each applicant
7 a permit for each place of business in this state where sales
8 or use tax is collected. A permit is not assignable and is
9 valid only for the person in whose name it is issued and for the
10 transaction of business at the place designated or at a place
11 of relocation within the state same county if the ownership
12 remains the same.

13 Sec. 19. Section 423.57, Code 2011, is amended to read as
14 follows:

15 **423.57 Statutes applicable.**

16 The director shall administer this subchapter as it relates
17 to the taxes imposed in this chapter in the same manner and
18 subject to all the provisions of, and all of the powers,
19 duties, authority, and restrictions contained in sections
20 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22,
21 423.23, 423.24, 423.25, ~~423.28~~, 423.29, 423.31, 423.32, 423.33,
22 423.34, 423.34A, 423.35, 423.37, 423.38, 423.39, 423.40,
23 423.41, and 423.42, section 423.43, subsection 1, and sections
24 423.45, 423.46, and 423.47.

25 Sec. 20. Section 622.10, subsection 5, paragraph c, Code
26 2011, is amended to read as follows:

27 c. Fees charged pursuant to this subsection are ~~not subject~~
28 ~~to a sales or use tax~~ exempt from the sales tax pursuant
29 to section 423.3, subsection 96. A provider providing the
30 records or images may require payment in advance if an itemized
31 statement demanding such is provided to the requesting party
32 within fifteen days of the request. Upon a timely request
33 for payment in advance, the time for providing the records or
34 images shall be extended until the greater of thirty days from
35 the date of the original request or ten days from the receipt

1 of payment.

2 Sec. 21. REPEAL. Section 423.28, Code 2011, is repealed.

3 DIVISION III

4 PROPERTY TAXES

5 Sec. 22. Section 427B.4, Code 2011, is amended to read as
6 follows:

7 **427B.4 Application for exemption by property owner.**

8 1. a. An application shall be filed for each project
9 resulting in actual value added for which an exemption is
10 claimed. The first application for exemption shall be filed
11 by the owner of the property with the ~~local assessor~~ governing
12 body of the city or county in which the property is located by
13 February 1 of the assessment year in which the value added is
14 first assessed for taxation for which the exemption is first
15 claimed, but not later than the year in which all improvements
16 included in the project are first assessed for taxation, or the
17 following two assessment years.

18 b. Applications for exemption shall be made on forms
19 prescribed by the director of revenue and shall contain
20 information pertaining to the nature of the improvement, its
21 cost, the estimated or actual date of completion, whether the
22 exemption schedules described in section 427B.3 or an alternate
23 schedule adopted pursuant to section 427B.1 will be elected,
24 and any other information deemed necessary by the director of
25 revenue.

26 2. a. A person may submit a proposal to the city council
27 of the city or the board of supervisors of a county to receive
28 prior approval for eligibility for a tax exemption on new
29 construction. The city council or the board of supervisors, by
30 ordinance, may give its prior approval of a tax exemption for
31 new construction if the new construction is in conformance with
32 the zoning plans for the city or county. The prior approval
33 shall also be subject to the hearing requirements of section
34 427B.1.

35 b. Prior approval received under this subsection does not

1 entitle the owner to exemption from taxation until the new
2 construction has been completed and found to be qualified real
3 estate. However, if the tax exemption for new construction is
4 not approved, the person may submit an amended proposal to the
5 city council or board of supervisors to approve or reject.

6 Sec. 23. RETROACTIVE APPLICABILITY. This division of this
7 Act applies retroactively to January 1, 2011, for assessment
8 years beginning on or after that date.

9 DIVISION IV

10 MISCELLANEOUS

11 Sec. 24. Section 364.2, subsection 4, paragraph f, Code
12 2011, is amended to read as follows:

13 f. (1) A franchise fee assessed by a city may be based
14 upon a percentage of gross revenues generated from sales of the
15 franchisee within the city not to exceed five percent, without
16 regard to the city's cost of inspecting, supervising, and
17 otherwise regulating the franchise. Franchise fees collected
18 pursuant to an ordinance in effect on May 26, 2009, shall be
19 deposited in the city's general fund and such fees collected
20 in excess of the amounts necessary to inspect, supervise, and
21 otherwise regulate the franchise may be used by the city for
22 any other purpose authorized by law. Franchise fees collected
23 pursuant to an ordinance that is adopted or amended on or
24 after May 26, 2009, to increase the percentage rate at which
25 franchise fees are assessed shall be credited to the franchise
26 fee account within the city's general fund and used pursuant
27 to section 384.3A. If a city franchise fee is assessed to
28 customers of a franchise, the fee shall not be assessed to the
29 city as a customer. Before a city adopts or amends a franchise
30 fee rate ordinance or franchise ordinance to increase the
31 percentage rate at which franchise fees are assessed, a revenue
32 purpose statement shall be prepared specifying the purpose or
33 purposes for which the revenue collected from the increased
34 rate will be expended. If property tax relief is listed as
35 a purpose, the revenue purpose statement shall also include

1 information regarding the amount of the property tax relief to
2 be provided with revenue collected from the increased rate.
3 The revenue purpose statement shall be published as provided
4 in section 362.3.

5 (2) If a city adopts, amends, or repeals an ordinance
6 imposing a franchise fee, the city shall promptly notify the
7 director of revenue of such action.

8 Sec. 25. Section 368.24, Code 2011, is amended to read as
9 follows:

10 **368.24 Notification to public utilities and to the department**
11 **of revenue.**

12 Notwithstanding any other provision of law to the contrary,
13 any city that annexes territory or any city from which
14 territory is severed shall provide written notification
15 consisting of a legal description and map of the annexed or
16 severed territory, each street address within the annexed
17 or severed area, where possible, a statement containing the
18 effective date of the annexation or severance and a copy of
19 the order, resolution, or ordinance proclaiming the annexation
20 or severance to all public utilities operating in the annexed
21 or severed area and to the department of revenue. If the
22 notification of the an annexation is provided to a public
23 utility less than sixty days prior to the effective date of the
24 annexation, the public utility shall have sixty days from the
25 date of notification to adjust its tax and accounting records
26 to reflect the annexation for any tax purpose.

27 Sec. 26. Section 424.2, subsections 6, 10, and 13, Code
28 2011, are amended to read as follows:

29 6. "*Depositor*" means the person who deposits petroleum into
30 an underground storage tank subject to regulation under chapter
31 455G or an aboveground petroleum storage tank as defined
32 in section 101.21, located at a retail motor ~~vehicle~~ fuel
33 outlet if the aboveground storage tank is physically connected
34 directly to pumps which dispense petroleum that is sold at the
35 motor ~~vehicle~~ fuel outlet on a retail basis.

1 10. "*Owner or operator*" means "*owner or operator*" of an
2 underground storage tank as used in chapter 455G or the "*owner*"
3 or "*operator*" of an aboveground petroleum storage tank as
4 defined in section 101.21, located at a retail motor ~~vehiele~~
5 fuel outlet if the aboveground storage tank is physically
6 connected directly to pumps which dispense petroleum that is
7 sold at the motor ~~vehiele~~ fuel outlet on a retail basis.

8 13. "*Tank*" means an underground storage tank subject to
9 regulation under chapter 455G or an aboveground petroleum
10 storage tank as defined in section 101.21, located at a retail
11 motor ~~vehiele~~ fuel outlet if the aboveground storage tank is
12 physically connected directly to pumps which dispense petroleum
13 that is sold at the motor ~~vehiele~~ fuel outlet on a retail
14 basis.